

CANADA

Canada continues to make progress in improving its IPR regime. In December 2002, the Government of Canada (GOC) revised its Copyright Act (Bill C-11) so that internet retransmission is, in effect, excluded from its compulsory licensing regime -- that is, unless licensed by the Canadian Radio-television & Telecommunications Commission (the "CRTC") and the CRTC has determined not to so license internet retransmissions. This follows amendments made to Canada's patent law in 2001 to provide 20 year patents that were filed before October 1, 1989. Despite these positive developments, the problems that originally caused Canada to be placed on the Watch List in 1995 remain largely unresolved. For example, although Canada continues to make some limited progress on resolving the outstanding issue of national treatment of U.S. artists in the distribution of proceeds from Canada's private copying levy and its "neighboring rights" regime, it still does not provide full national treatment. In addition, Canada does not provide effective data exclusivity protections, and systematic inadequacies in Canadian administrative and judicial procedures allow entry of infringing generic versions of patented medicines into the marketplace. Further, this is the third consecutive year that Canada's border measures have been the target of severe criticism by IP owners, who consider Canada's border enforcement measures to be inconsistent with its TRIPS obligations.